

Alice Yeh/R2/USEPA/US

03/14/2006 05:54 PM

To Elizabeth Butler, Patricia Hick, Tom Taccone

cc Delmar Karlen, Bill McCabe, Deborah Mellott, Ray Basso, Kedari Reddy

bcc

Subject Re: Comm Jackson's ltr & draft response

Just in case any changes are required, attached is the final version of the letter that is circulating for concurrence (Del's comment addressed).



Response to Jackson 030706 ltr-final.doc

Delmar Karlen/R2/USEPA/US

Delmar Karlen/R2/USEPA/US

03/14/2006 12:29 PM

To Patricia Hick/R2/USEPA/US@EPA

cc Alice Yeh/R2/USEPA/US@EPA, Bill McCabe/R2/USEPA/US@EPA, Deborah Mellott/R2/USEPA/US@EPA, Elizabeth Butler/R2/USEPA/US@EPA, Kedari Reddy/R2/USEPA/US@EPA, Ray Basso/R2/USEPA/US@EPA, Tom Taccone/R2/USEPA/US@EPA

Subject Re: Comm Jackson's ltr & draft response 

Ex. 5; predecisional & deliberative; atty-client communication


Patricia Hick/R2/USEPA/US

Patricia Hick/R2/USEPA/US

03/14/2006 11:54 AM

To Alice Yeh/R2/USEPA/US@EPA

cc Bill McCabe/R2/USEPA/US@EPA, Deborah Mellott/R2/USEPA/US@EPA, Elizabeth Butler/R2/USEPA/US@EPA, Kedari Reddy/R2/USEPA/US@EPA, Ray Basso/R2/USEPA/US@EPA, Tom Taccone/R2/USEPA/US@EPA, Delmar Karlen/R2/USEPA/US@EPA

Subject Re: Comm Jackson's ltr & draft response 

We'll look at it right away.

Alice Yeh/R2/USEPA/US

Alice Yeh/R2/USEPA/US

03/14/2006 11:39 AM

To Patricia Hick/R2/USEPA/US@EPA

cc Kedari Reddy/R2/USEPA/US@EPA, Deborah Mellott/R2/USEPA/US@EPA, Tom Taccone/R2/USEPA/US@EPA, Elizabeth Butler/R2/USEPA/US@EPA, Bill

McCabe/R2/USEPA/US@EPA, Ray
Basso/R2/USEPA/US@EPA
Subject Comm Jackson's ltr & draft response

Bill McCabe asked me to share a copy of Commissioner Jackson's letter about coordinating efforts on the Passaic River IRM evaluation and NJ Source Control Plan, and a copy of our proposed response. I believe he was responding to Eric Schaaf's request for these items.



Response to Jackson 030706 ltr-final.doc Jackson ltr 030706.pdf

I understand that the RA wants this response out tomorrow, so I'll be finalizing it for concurrence this afternoon.

Commissioner Lisa P. Jackson
New Jersey Department of Environmental Protection
P.O. Box 402
Trenton, New Jersey 08625-0402

Dear Commissioner Jackson:

I am pleased to confirm my support for discussions between our agencies to coordinate efforts on evaluating whether interim remedial measures (IRMs) can be implemented on the Lower Passaic River. As you know, before the Directive was issued, I had urged New Jersey to join the comprehensive Lower Passaic River Study being implemented by the partner agencies and to take an active role in the IRM evaluation that we had already committed to complete in Summer 2006.

As you mentioned in your March 7, 2006 letter, our respective staffs are already planning a meeting in March to share scopes of work and formulate a plan to coordinate efforts on the IRM evaluation and NJ Source Control Plan. I will be directing my staff to settle on a date as early in March as is feasible to have a productive meeting.

However, I view this March meeting as just the first of a series of meetings that will need to be held to come to consensus on how we can coordinate work efforts. These coordination meetings will not produce a conclusion about the IRM action itself, because we have committed to making the IRM evaluation based on sound science and all available data, including new data from our Summer/Fall 2005 field sampling efforts. Those new data will be coming in from our laboratories in April/May 2006, after which we will need time to incorporate them into the IRM evaluation. In addition, we have also committed to making the IRM evaluation in an open forum, with opportunity for a diverse group of stakeholders to provide input. That open forum is the Remedial Options Work Group we formed, composed of agencies, including your staff, and various stakeholders, whose first meeting took place on February 1, 2006. Ex. 5; predecisional & deliberative; atty-client communication

I agree that time is of the essence, so let's keep the pressure on our staffs to work out a way to coordinate the IRM evaluation with the Source Control Plan, so that we can avoid duplication of effort while moving forward together to determine whether an early action can be taken to improve the condition of the Lower Passaic River.

Sincerely,

Alan J. Steinberg
Regional Administrator



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PO Box 402
TRENTON, NJ 08625-0402
TEL. # (609) 292-2885
FAX # (609) 292-7695

ION S. CORZINE
Governor

LISA P. JACKSON
Commissioner

March 7, 2006

By Facsimile and Regular U.S. Mail

The Honorable Alan J. Steinberg
Regional Administrator
United States Environmental Protection Agency
Region II
290 Broadway, Floor 26
New York, New York 10007

Re: Passaic River

Dear Regional Administrator Steinberg:

I am writing to confirm our phone conversation yesterday regarding USEPA Region II and New Jersey Department of Environmental Protection (NJDEP) promptly engaging in discussions concerning possible coordination of our agencies' respective efforts to develop interim remedial and removal measures for the Passaic River. As you know, in December 2005, NJDEP issued to Occidental Chemical Corporation, Tierra Solutions, Inc. and Maxus Energy Corporation (collectively "OCC") a Directive under the New Jersey Spill Compensation and Control Act directing those entities to pay the costs (expected to be \$2.3 million) to engage Louis Berger & Associates to analyze and recommend a dredging and stabilization plan to address the hot spots of TCDD in the lower Passaic River within one year. After issuance of NJDEP's directive, USEPA Region II provided to DEP and others a draft presentation on USEPA's recently initiated "Evaluation of Interim Remedial Measures," which is scheduled to be completed by early summer of this year.

NJDEP is willing to work with USEPA Region II to examine the scope of our respective agencies' IRM efforts to determine if there are efficiencies that can be had by coordinating or merging the two agencies' activities. In order to achieve an effective IRM, NJDEP considers the following to be key goals: a) the IRM should address control of the continuing releases of TCDD from the Passaic River sediments, which, for example, Malcolm Pirnie recently has confirmed to be an ongoing significant contributor to the condition of the river and the dangers associated therewith; b) the IRM should take into account Governor Jon S. Corzine's strong desire to reopen the Passaic River to navigation as part of a larger State effort to revitalize the economy of Newark and the State.

You indicated yesterday your willingness to have USEPA Region II engage in that dialogue. With your commitment to do so, NJDEP would be willing to forgo enforcement of the Source Control Dredge Plan Directive issued to OCC for sixty to ninety days while our agencies work toward a solution that has a positive outcome for the environment and the people of New Jersey.

Should USEPA Region II and NJDEP reach consensus within sixty to ninety days on an IRM approach that achieves these goals in the near term, NJDEP would be willing to modify the scope of the State's Source Control Dredge Plan accordingly.

I would appreciate you confirming your commitment to have USEPA Region II engage in the IRM discussions described above so that I may have my office promptly coordinate a meeting of the appropriate technical and other staff from our agencies to begin this dialogue. Please note that technical staff of both agencies were already planning a meeting at the end of March. Given the time sensitivity of this matter, I believe that meeting should be held much sooner. Meanwhile, it would be best to provide direction to staff so they may identify all opportunities for coordination.

Time is of the essence in resolving this significant environmental problem for the citizens of New Jersey. I therefore ask for your prompt response and thank you for your consideration of this alternative approach which I hope will allow our agencies to reach consensus on a meaningful IRM that will make a true difference for the Passaic River.

Very truly yours,



Lisa P. Jackson
Commissioner